

REPORT OF THE COMMITTEE ON PARKS

Voting Members

Joey Manahan, Chair; Ron Menor, Vice-Chair,
Stanley Chang, Carol Fukunaga, Breene Harimoto

Committee Meeting Held
February 26, 2013

Honorable Ernest Y. Martin
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Parks, to which was referred Bill 8 (2013) entitled:

"A BILL FOR AN ORDINANCE RELATING TO PUBLIC PARKS,"

introduced on February 14, 2013, which passed first reading at the February 20, 2013 Council meeting, reports as follows:

The purpose of the Bill is to address activities at City parks.

The introducer of the Bill, Council Vice-Chair Anderson, provided opening remarks on the purpose of Bill 8.

Toni Robinson, Director Designee of the Department of Parks and Recreation (DPR), provided oral testimony in general support of the measure, but requested an amendment to clarify that the most direct route must be used when traversing a City beach park.

Committee Chair Manahan presented a hand-carried CD1 of the Bill with an explanation of the following proposed changes:

- A. Replaces "to reach the shoreline" with "shoreline access" to clarify that traversing a park to and from the shoreline is allowed (rather than only one

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direction), and clarifies that shoreline access refers to the area below the high wash of the wave.

- B. Adds language requiring that a direct path be taken when traversing a park, to minimize meandering through the park.
- C. Limits the mode of transportation used to traverse a City beach park to pedestrian travel or travel by use of an electric personal assistive mobility device.
- D. Clarifies that dogs accompanying persons are allowed to traverse City beach parks to access shoreline areas below the high wash of the wave if dogs are permitted in those state waters.
- E. Clarifies that traversing a City beach park must be for non-commercial shoreline access purposes.
- F. Makes miscellaneous technical and nonsubstantive amendments.

Deputy Corporation Counsel Dawn Spurlin testified in response to questions regarding Bill 8, and reserved comment on the hand-carried CD1 pending a more thorough review. Salient points made by the Deputy Corporation Counsel include:

- 1) Language should be added to Section 10.1.2 to clarify that a person must use the most direct route when traversing a public beach park during park closure hours.

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- 2) Language should be added to Section 10.1.7 to clarify that a person in custody and control of a dog must use the most direct route when traversing a public beach park for purposes of reaching the shoreline.
- 3) With the caveat that it was not the official position of the City Corporation Counsel, Ms. Spurlin stated she believed that any City commercial activity ban would apply only to City park property, and such a ban would not apply to the shoreline area below the highwater mark if the commercial activity is permissible under rules of the State Department of Land and Natural Resources (DNLR). She added that as long as the commercial activity does not take place in the park, people have every right to traverse the park to access the shoreline.
- 4) Ms. Spurlin also stated that anyone wishing to access the shoreline has a constitutional right to shoreline access whether or not the park is closed. She indicated that HPD allows fishermen to traverse the park to reach the shoreline during park closure hours.

Committee Vice-Chair Menor requested that Corporation Counsel issue an opinion on the constitutional right of people to access the shoreline. He suggested that Corporation Counsel may wish to consult with the Honolulu Police Department (HPD) and DNLR.

Mr. Chuck Prentiss, chair of the Kailua Neighborhood Board, and other Windward area residents expressed concern that the Bill would provide a "loophole" for businesses to circumvent the existing ban on commercial activity at Kailua Beach Park and Kalama Beach Park.

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Committee Chair Manahan asked Deputy Corporation Counsel Spurlin to review the hand-carried CD1, and to present her comments when the Bill is referred back to Committee. He also requested that Ms. Spurlin consult with DNLR.

Your Committee revised Bill 8 to a CD1, which made the following changes:

- A. Adds language in Section 10-1.2(a) (12) and Section 10-1.7(c) (1) (E) requiring that the most direct route be taken when traversing a park.
- B. Makes miscellaneous technical and nonsubstantive amendments.

Your Committee on Parks is in accord with the intent and purpose of Bill 8 (2013), as amended herein, and recommends that it pass second reading in the form attached hereto as Bill 8 (2013), CD1, be scheduled for public hearing, and be referred back to Committee. (Ayes: Manahan, Chang, Fukunaga, Harimoto, Menor – 5; Noes: None.)

Respectfully submitted,



Committee Chair

CITY COUNCIL
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COMMITTEE REPORT NO. 50



A BILL FOR AN ORDINANCE

RELATING TO PUBLIC PARKS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to address activities at city parks.

SECTION 2. Section 10-1.1, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by adding a new definition of "traverse" to read as follows:

"Traverse" means to travel continuously in a direction across or through."

SECTION 3. Section 10-1.2 Revised Ordinances of Honolulu 1990 ("Park rules and regulations") is amended by amending subsection (a) to read as follows:

"(a) Within the limits of any public park, it is unlawful for any person to:

- (1) Willfully or intentionally destroy, damage or injure any property;
- (2) Climb onto any tree, except those designated for climbing, or to climb onto any wall, fence, shelter, building, statue, monument or other structure, excluding play apparatus;
- (3) Swim, bathe, wade in or pollute the water of any ornamental pool or fountain;
- (4) Kindle, build, maintain or use any fire, other than in a grill or brazier;
- (5) Annoy, molest, kill, wound, chase, shoot or throw missiles at any animal or bird;
- (6) Distribute, post or place any commercial handbill or circular, notice or other advertising device or matter, except as permitted by the terms of any agreement relating to the use of park property;
- (7) Use any surfboard or devices or materials with jagged or rough ends and edges, which are dangerous to surfers, swimmers or bathers;
- (8) Construct or fabricate surfboards;



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- (9) Permit any animal to enter and remain within the confines of any public park area except as otherwise provided in this article;
- (10) Feed any animal or bird when signs are posted prohibiting such feeding;
- (11) Wash, polish or repair cars or other vehicles;
- (12) Enter or remain in any public park during the night hours that the park is closed, provided that signs are posted indicating the hours that the park is closed[;], except that a person may traverse a public beach park using the most direct route during park closure hours for the purpose of reaching the shoreline;
- (13) Camp at any park not designated as a campground;
- (14) Fail to comply with any sign or notice posted by the City and County of Honolulu;
- (15) Utilize, place, occupy, leave, or in any other manner situate a shopping cart."

SECTION 4. Section 10-1.7 Revised Ordinances of Honolulu 1990 ("Animals in public parks") is amended by amending subsection (c) to read as follows:

- "(c) The director shall adopt rules pursuant to HRS Chapter 91 to hold persons bringing permitted animals into public parks responsible for the sanitary use of the park, the protection of shrubbery, trees, turf and other property, and the safety, health and welfare of all park users. The rules shall address the specific responsibilities associated with bringing a type of animal into a public park.
 - (1) Rules for persons bringing leashed dogs into designated parks or park areas shall include:
 - (A) Requiring the person having custody and control of the dog to restrain the dog at all times on a leash, cord, chain or other similar means of physical restraint of not more than eight feet in length;
 - (B) Requiring all dogs in the park or park areas designated for leashed dogs to display a valid license tag attached to the dog's collar;



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- (C) Requiring the person having custody and control of the dog to be eighteen years of age or older; [and]
 - (D) Requiring the person having custody and control of the dog to carry equipment for the removal and disposal of dog feces and to clean up and dispose of feces left by the dog[.]; and
 - (E) Allowing, notwithstanding Section 10-1.2(a)(9), persons otherwise in compliance with this article and having custody and control of a dog otherwise in compliance with this subdivision to traverse a public beach park using the most direct route for the purpose of reaching the shoreline during either hours when the park is open or hours when it is closed.
- (2) Rules for persons bringing dogs off-leash into designated off-leash parks shall include:
- (A) Requiring the person having custody and control of the dog to maintain voice control over the dog at all times;
 - (B) Prohibiting female dogs in estrus from entering the off-leash park;
 - (C) Requiring all dogs to display a valid license tag attached to the dog's collar;
 - (D) Notifying any person entering an off-leash park that the person enters and remains in the park at his or her own risk and the city is not liable for any injury or harm to any person or dog incurred or caused by any other person or dog entering or remaining in the off-leash park;
 - (E) Requiring the person having custody and control of the dog to be eighteen years of age or older; and
 - (F) Requiring the person having custody and control of the dog to carry equipment for the removal and disposal of dog feces and to clean up and dispose of feces left by the dog."

SECTION 5. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the



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Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.

SECTION 6. The Council is aware that at the time this bill is considered for final approval by the Council, there may be other bills that were given final approval by the Council but not enacted as an ordinance that amend the same provisions of the Revised Ordinances of Honolulu that this bill amends. If this bill is enacted as an ordinance, the Revisor of Ordinances shall give maximum effect to all amendments to the revised ordinances made in this bill and made in any other bill situated as described above. The absence in this bill of amendments made in those other bills shall not be construed as a repeal of the amendments made in those other bills.



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SECTION 7. This ordinance shall take effect upon approval.

INTRODUCED BY:

Ikaika Anderson

DATE OF INTRODUCTION:

February 14, 2013
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu